

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
AMENDED INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
AMENDED (Pre-publication of Notice Statement)

Add Sections 53.00, et seq; 149.1, 149.2, 149.3 and 149.4
Amend Section 149

Title 14, California Code of Regulations
Re: Market Squid Fishery Management Plan, Commercial Take of Squid,
and Market Squid Restricted Access Program

I. Date of Initial Statement of Reasons: October 6, 2003

Date of Amended Initial Statement of Reasons: April 12, 2004

Date of Second Amended Initial Statement of Reasons: May 27, 2004

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: August 1, 2003
Location: Long Beach, CA

(b) Discussion Hearings: Date: November 7, 2003
Location: San Diego, CA
(cancelled)

Date: December 5, 2003
Location: Sacramento, CA

Date: May 4, 2004
Location: San Diego, CA

(c) Adoption Hearing: Date: August 27, 2004
Location: **Morro Bay**, CA

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis
for Determining that Regulation Change is Reasonably Necessary:

Regulations are proposed to implement a Market Squid Fishery Management
Plan (Market Squid FMP, or Plan), including a market squid commercial fishery

restricted access program, and to amend existing commercial squid fishing regulations adopted by the Fish and Game Commission (Commission) to manage the squid resource at a sustainable level. Fish and Game Code Section 8425 directs the Department of Fish and Game (Department) to develop, and the Commission to adopt, a Market Squid FMP in compliance with the Marine Life Management Act (MLMA) (Chap. 1052, Stats. 1998).

Fish and Game Code Section 8420 provides Legislative findings that the market squid fishery is the state's largest commercial fishery by volume, and that squid is an important bait source for the state's recreational fisheries as well as a valuable forage item for marine fish, birds and mammals. The Section also contains a Legislative declaration that to prevent excessive fishing effort in the market squid fishery and to develop a plan for the sustainable harvest of market squid, it is necessary to adopt and implement a fishery management plan for the California market squid fishery that sustains both the squid population and the marine life that depends on it. Fish and Game Code Section 8425 further states that the Commission shall adopt the Plan and regulations to protect the resource and manage the fishery at a level that sustains healthy squid populations, taking into account the level of fishing effort and ecological factors, including, but not limited to, the species' role in the marine ecosystem and oceanic conditions.

Pursuant to Section 8425, adoption of the Market Squid FMP shall occur after consideration of a 2001 report on the status of the market squid fishery with recommendations for a market squid conservation and management plan, and management recommendations prepared by the Department, and after public hearings. The statute also specifies that development of the Plan must be coordinated with the federal Coastal Pelagic Species Fishery Management Plan, in addition to being consistent with the MLMA.

As background, the MLMA includes guidelines for the development and adoption of fishery management plans and a description of the content of fishery management plans (Fish and Game Code Sections 7075-7088 et seq.). Under this mandate, the State is directed to manage its fishery resources through the development and implementation of fishery management plans, which are then carried out, in part, by the Commission through the adoption of regulations. The process of developing fishery management plans and the regulations which follow are expected to make management objectives and marine fishery regulations more readily available and clearer to the Commission, Department, and the public. The Market Squid FMP is the third fishery management Plan prepared by the Department and scheduled for adoption by the Commission pursuant to the MLMA.

It should be noted that the existing statutes in Fish and Game Code 8420-8429.7

also impose some initial requirements on the market squid fishery, and also provide ongoing authorization to the Commission to establish additional regulations to manage the fishery in accordance with the MLMA. Section 8429.7 specifies that many of those existing statutes become inoperative upon adoption of the Market Squid FMP and are repealed six months thereafter, although the Commission's statutory authority to manage the squid fishery remains. At the Commission's discretion, many of those statutory provisions which would become inoperative at the time of Plan adoption may instead be adopted by the Commission as a regulation in Title 14. This regulatory package includes those provisions and other alternatives to them.

Once adopted, the Market Squid FMP will establish a management program for California's market squid fishery and detail the procedures by which the Department and Commission will manage the market squid resource. There are 17 option categories in the Market Squid FMP for fishery management based on four management components described in the Plan: fishery control rules, harvest replenishment areas, restricted access and other concerns (Table 1 – Management Options and Alternatives). Within each option category, a range of possible management actions has been provided for the Commission to evaluate. The Commission may select any of these alternatives, modify the alternatives, or request new alternatives in its adoption of the Plan. The Commission must make the policy determination on how to best manage the market squid fishery, by way of the Market Squid FMP, in order to achieve the maximum level of squid harvest while maintaining a sustainable squid population and the marine life that depends on it.

The Market Squid FMP is also considered a "project" under the California Environmental Quality Act (CEQA) and was concurrently prepared as an "environmental document" pursuant to CEQA requirements. The Plan serves as a "functional equivalent" to an Environmental Impact Report, which is required under the MLMA, and must be certified by the Commission as meeting CEQA requirements. The Plan includes possible projects (which equate to the various management options and alternatives) under CEQA which involve different combinations of the options, any of which may be adopted by the Commission. The "preferred project" alternative describes the Department's recommendation on which combination of these measures would best utilize and sustain California's market squid stocks and fisheries over the long-term. Management options which are included as part of the "preferred project" are denoted in *italics* in Table 1.

The four components of the Market Squid FMP will guide future management of squid stocks and fisheries, and affect the squid resource and fisheries for years to come. The alternatives contained within these components reflect a range of

options which may include a continuation of current management and regulations, as well as new or modified management measures and regulations, as follows:

- A. Seasonal Statewide Catch Limitation
- B. Monitoring the Fishery Using an Egg Escapement Method
- C. Daily Trip Limit for Market Squid Vessels and Brail Vessels
- D. Weekend Closures
- E. Monitoring Program – Fishery Dependent Data Collection
- F. Restrictions on the Live Bait Fishery and Incidental Catch of Market Squid
- G. Harvest Replenishment Areas for Squid
- H. Market Squid Fleet Capacity Goal
- I. Initial Issuance of Restricted Access Permits
- J. Restricted Access Permit Fees
- K. Market Squid Vessel Permit Transfer Program
- L. Market Squid Brail Permit Transfer Program
- M. Market Squid Light Boat Permit Transfer Program
- N. Permit Transfer Fees
- P. Fishery Area and Time Closures to Address Seabird Issue
- Q. Market Squid Advisory Committee Options

These option categories were slightly revised in the spring 2004 draft plan document, as follows:

- A. Seasonal Statewide Catch Limitation
- B. Monitoring the Fishery Using an Egg Escapement Method
- C. Daily Trip Limit for Market Squid Vessels and Brail Vessels
- D. Weekend Closures
- E. Monitoring Program – Fishery Dependent Data Collection
- F. Restrictions on the Live Bait Fishery and Incidental Catch of Market Squid
- G. Gear Restrictions
- H. Market Squid Fleet Capacity Goal
- I. Initial Issuance of Restricted Access Permits
- J. Restricted Access Permit Fees
- K. Market Squid Vessel Permit Transfer Program
- L. Market Squid Brail Permit Transfer Program
- M. Market Squid Light Boat Permit Transfer Program
- N. Permit Transfer Fees
- O. Experimental Market Squid Vessel permits
- P. Market Squid Regional Control Date
- Q. Harvest Replenishment/General Habitat Closure Areas for Squid

R. Fishery Area and Time Closures to Address Seabird Issue
S. Market Squid Advisory Committee Options

The measures selected by the Commission when it approves the Plan, certifies the environmental document, and adopts regulations are of great interest to both extractive and non-extractive users of these resources because of the real and potential effects on livelihoods, recreational opportunities, the environment, and all marine resources that interact with squid or the squid fishery.

Of the alternatives detailed in the Plan, only some are included in proposed regulations which would be added to, or would amend Title 14, CCR, as not all require regulatory action to enact. This Initial Statement of Reasons includes only discussion of those items which would require regulatory action to implement. However, proposed regulations described in this Initial Statement of Reasons reflect both the Department's preferred project and the other projects from which the Commission can select.

Each of the management alternatives included in the proposed regulatory amendments to Title 14, CCR, is described in the summary which follows. However, since the Market Squid FMP itself is dedicated to providing the available data, background, options, and a detailed description of the necessity for implementing each of the proposed management strategies, as well as a summary of impacts, this information is not fully reiterated here in this Initial Statement of Reasons.

Add Section 53.00, et seq. This proposed series of regulations serves to implement the Market Squid FMP, as follows:

Section 53.00 - Purpose and Scope. Following in the series of regulations established in Chapter 5.5 of Title 14, CCR which implement fishery management plans adopted by the Commission pursuant to the Marine Life Management Act, this Section provides that regulations established in Article 4 are consistent with the goals and objectives of the Market Squid FMP. It also states that the Plan, in combination with other applicable state and federal laws and regulations, governs management and regulation of market squid stocks and fisheries. The regulation further explains where specific squid regulations that will be adopted concurrently with adoption of the Plan may be found in the structure of Title 14.

Section 53.01-Definitions. This Section serves to provide definitions that are specific to the Market Squid FMP. All definitions provided are consistent with those found in the general FMP definitions found in Section 50.01 of Title 14 as well as other provisions of state and federal fisheries laws. However, in some

cases, the definitions in this Section provide meanings which may be applicable only in the context of the Market Squid FMP. The specified approval date was updated to reflect extension of the Commission's plan adoption date.

Section 53.02 - Process and Timing. This Section explains that management of squid stocks and fisheries will conform to the Market Squid FMP and other applicable state and federal laws and regulations, and that regulations may be adopted by the Commission in compliance with the Administrative Procedure Act to achieve intended management actions. The Department will provide the Commission information periodically upon which management decisions may be made, and the Director may establish an advisory committee to assist the department with development and review of fishery assessments, management options and proposals, and Plan amendments.

Section 53.03 - Market Squid Fishery Management Plan (Market Squid FMP) Project. This Section serves to outline the proposed management actions which are presented in the Market Squid FMP, which constitute the "Proposed Project" of the Market Squid FMP, in fulfillment of CEQA requirements. This Section also provides that other management measures which are not included at this time as part of the proposed project or specifically detailed in the Market Squid FMP may be considered by the Commission for implementation at a later date, provided the action is consistent with the goals and objectives of the Market Squid FMP.

149. Commercial Taking of Market Squid. This Section was modified in 2000 and 2002 based upon the Commission's adoption of interim regulations using management authority from the Legislature to protect and manage the squid resource. Management measures adopted in these actions included enactment of weekend closures to provide for uninterrupted squid spawning throughout the state for two days per week, requirements to fill out logbooks of fishing activity, a limitation on the amount of light (wattage) which may be used for commercial squid fishing operations, a requirement to shield lights used for commercial squid fishing, and a statewide seasonal limit on the allowable catch of 125,000 short tons. These requirements are currently specified in subsections (a) through (e) of Title 14, CCR. Modifications, alternatives and additions to regulations in this Section are discussed below.

Section 149 Subsection (a) – Weekend Closures. Four regulatory options are provided for the Commission's consideration on this item; the first would only modify existing regulatory language to provide needed clarity on the scope of the regulation for enforcement purposes. The proposed modifications would clarify that commercial landings which are smaller than two tons are exempt from the closure in order to continue to provide an opportunity to land squid which may be

taken as bycatch in fisheries where squid is not a target. Additionally, it is clarified that squid taken for live bait purposes on weekends pursuant to this Section shall only be sold as live bait.

The second option would repeal the weekend closure altogether.

The third option would maintain existing statewide weekend closures but provide for an exemption in the areas of the northern Channel Islands to allow fishing to continue 7 days per week, as some portion of the squid stock in that area would instead be protected in the newly-established marine protected areas.

The fourth option would maintain existing weekend closures in waters south of Point Conception, but the Commission could adjust the number of days per week open to fishing as well as the times of day or night that commercial squid fishing would be authorized in waters north of Point Conception. **Furthermore, the Commission could enact an additional time closure for commercial squid fishing in waters of District 16 (southern Monterey Bay) between 9 a.m. and 6 p.m. on the days when fishing is authorized.**

Section 149 Subsection (b) – Logbooks. As with weekend closure regulations in subsection (a), the Commission will take action at the adoption meeting to specify if existing logbook regulations shall be maintained and slightly modified for enforcement purposes, or if the measure shall be repealed. Proposed modifications to the existing language would update the permit designations to be consistent with the proposed commercial restricted access program and modify the revision dates of the logbook forms which are referenced in the regulation. It would also specify that logbook records shall be transmitted to the Department on or before the 10th day of each month following the month that fishing activity occurred, a requirement consistent with existing regulatory language in Section 190, Title 14, CCR.

Section 149 Subsection (c) – Wattage Limitation. The Commission will take action at the adoption meeting to specify if existing wattage regulations shall be eliminated, maintained at the current level, or replaced with a wattage limitation set at a value between the range of 15,000 to 30,000 watts. Other slight modifications are proposed to the existing regulatory language for technical clarification purposes.

Section 149 Subsection (d) – Light Shields. The Commission will determine if the current requirements shall be maintained status quo, if they should be modified to improve the effectiveness of the measure, or if they shall be repealed altogether. Department enforcement staff have indicated that the existing regulatory language is somewhat unclear with regard to the orientation of the lights directly downward; thus, the option to modify the requirements would add

language which would also require that the lower edges of the shields be parallel to the deck of the vessel. The Department recognizes that this change to current practice could require that some light boat or vessel owners would need to substantially retrofit their shields in order to comply with the proposed regulatory change. It would be incorrect to designate the proposed change as merely a non-substantive, technical or clarifying in nature, and therefore it is considered as a separate regulatory option.

Section 149 Subsection (e) – Seasonal Catch Limitation. The Commission has four options to select from in terms of specifying an overall limit each season on the commercial harvest of squid. In options that serve to modify existing regulatory language, the existing term of “seasonal harvest guideline” is proposed to be replaced with “seasonal catch limitation” in each option in order to maintain consistency with general fishery management plan definitions specified in Section 50.01, Title 14, CCR. Other clarifying language was included to acknowledge existing or proposed regulatory provisions in this Section. The options include A) maintain existing regulations for a statewide catch limit, while considering changes to the allowable volume from a range of 24,000 to 125,000 short tons, B) eliminate the existing provisions, C) use El Nino events to determine the allowable harvest level [11,000 short tons during an El Nino time period and 115,000 short tons during a non-El Nino time period], or D) establish the limits regionally rather than statewide [5,500 to 27,800 short tons north of Point Conception and 65,500 to 111,600 short tons south of Point Conception]. Options C and D involve substantial new regulatory language.

Section 149 Subsection (f) – Option to Add Daily Trip Limits. If adopted, these regulations would limit each squid landing to a specified tonnage level depending on the type of fishing gear used. Roundhaul (purse seine, lampara) landings would be subject to a daily trip limit ranging from 30 to 138 short tons per day, and a level of 15 short tons would be imposed for brail vessels. This management measure may serve to spread the catch to a greater number of individual vessels and prohibit markets from depending on only a few boats to provide all the catch. It may also deter future entry into the fishery by bigger vessels that would require larger deliveries to maintain a profit margin. Additionally, it may serve to lengthen the fishing season.

Section 149 Subsection (g) – Options to Add Seasonal Closure Areas for Seabird Protection and/or Harvest Replenishment Areas and/or General Habitat Closures. If adopted, these regulations would establish a closed season from February 1 through September 30 for squid fishing, or for squid fishing employing the use of lights, in specified areas at two or three of the northern Channel Islands and/or the Farallon Islands and/or all waters of the Gulf of the Farallones National Marine Sanctuary in order to provide seasonal

protection for nesting seabirds. Each of the proposed closure areas extend outward at least one nautical mile from shore. These options were designed to provide various levels of protection to multiple seabird species which may have reduced, threatened, or endangered population levels. The seasonal closure end date was amended to provide the Commission a range of time periods from which it may select. The proposed closure period may now end on any date between September 30 and November 30.

Additionally, if adopted, a proposed regulation would prohibit the take of market squid for commercial purposes in waters less than 100 fathoms in depth contiguous to San Nicholas Island. This proposed option may provide a specific squid harvest replenishment area in a currently underutilized squid fishing area and would prevent expansion of the fishery into these waters.

Additionally, if adopted, proposed regulations would prohibit the take of market squid for commercial purposes in specified northern California waters for general habitat protection. These measures are designed to prevent squid fishery interactions in areas that have not been traditionally utilized for commercial squid fishing. In 2003, several boats began harvesting squid in waters well north of the traditional Monterey fishing grounds, which is of concern to some biologists and other users of these areas. Particular issues that have been raised as matters of concern in these areas include the potential for bycatch of salmon in purse seine gear, potential for impact to seabirds from noise and lights, and the potential for interaction with marine mammals. Options to address these concerns include closing all waters to the commercial take of squid north of Pillar Point at any time, prohibiting the commercial take of squid in any waters of the Gulf of the Farallones National Marine Sanctuary, prohibiting the take of squid for commercial purposes in waters extending offshore one nautical mile from the mean high water mark of Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock, or prohibiting the take of squid for commercial purposes in District 10.

Section 149 Subsection (h) –Allow for Incidental Take. This regulation would specify that it is unlawful to take, land, or possess in excess of two tons of squid per trip or per calendar day except as authorized under a specific permit designation or for purposes of live bait only. This amendment would serve to establish, in regulation, a statutory provision that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

Section 149 Subsection (i) –Specify Forfeiture Process. This amendment would also serve to establish, in regulation, a statutory provision in Section 8421

(h) that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

Section 149 Subsection (j) –Clarify Authorized Use of Light to Aggregate Squid. This amendment would also serve to establish, in regulation, a statutory provision in Section 8423 (e) that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

Section 149 Subsection (k) –Clarify to Whom Citations for Violations of This Section May Be Issued. The proposed regulations would include this subsection to clarify that citations for violations of this Section may be issued to the vessel operator, crewmembers, and/or the holder of a market squid permit issued pursuant to Section 149.1, Title 14, CCR. This provision is needed to ensure enforcement of regulations aboard vessels where permits are issued to partnerships and corporations, instead of individual vessel owners.

Add Section 149.1, et seq. This proposed series of regulations serve to implement the commercial Market Squid Fishery Restricted Access Program, as follows below. The program and regulations are designed in accordance with the Commission’s policy on Restricted Access Commercial Fisheries, and provides for a reduction in the fishing capacity of the market squid fleet and to allow for transfer of permits, which has been prohibited under the current statutory moratorium on permit issuance. The regulations, if adopted, would define and establish permits of different classes based on authorized gear types, procedural requirements for permit issuance, fishery capacity goals, and specific mechanisms to achieve those goals through permit transferability and upgrades.

Section 149.1 Subsection (a) – Establish Permit Requirement to Fish Squid for Commercial Purposes. This proposed regulation states that on and after April 1, 2004, any vessel engaged in taking squid, landing squid, or attracting squid by light for commercial purposes, shall have a valid market squid permit issued to the owner of that vessel. The regulatory language was updated to reflect extension of the plan adoption date. April 1, 2005 is now proposed as the effective date for the permit requirement. **A minor grammatical change was made to the proposed regulatory text for clarity.**

Section 149.1 Subsection (b) – Establish Permit Classes and Authorized Activities. The proposed subsection would designate up to three classes of commercial squid permits, to include Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits. Within each permit class, authorized gear types are specified. The regulation also allows permits to be

specified as transferable or non-transferable, or both types of permits to be issued in each class. Only one market squid permit, regardless of the class of permit, may be issued per owner per vessel.

Section 149.1 Subsection (c) – Establish Initial Permit Issuance Criteria.

The proposed regulatory language specifies that permits are to issued for fishing vessels based on either the vessel or an individual meeting the selected initial issuance criteria for each class of permit. The Commission may choose among several initial issuance criteria options that can result in transferable and/or non-transferable permit designations. For vessel permits, initial issuance criteria are constructed upon levels of catch history ranging from 50 to 150 squid landings within a qualifying time period spanning from January 1, 1990 to December 31, 2002. For brail permits, the Commission may consider a range of qualifying participation levels from 5 to 25 squid landings made with brail gear within a qualifying time period spanning from January 1, 1990 to December 31, 2002. For light boat permits, initial issuance criteria based on landings are inappropriate, therefore this option is based on possessing a current market squid permit (vessel or light) and submission of one logbook within a qualifying time period spanning from January 1, 2000 to December 31, 2002. Options are provided that include permit issuance criteria based on 10 to 50 squid landings in one single fishing season for 20-year California commercial fishermen (grandfathered individuals) pursuant to Fish and Game Code Section 8101. Other options for initial issuance criteria would not be based on prior catch history, and instead would require only that a squid permit have been held in one or more previous years. The range of dates provided from which a qualifying window period may be selected was clarified and extended to March 31, 2003. Therefore, the Commission may select any window period start date from January 1, 1990 through January 1, 2000, and any end date from November 12, 1999 through March 31, 2003. Most proposed initial issuance criteria options require that the vessel owner be issued a current squid permit. The specified permit dates were updated to reflect extension of the plan adoption date.

The regulation further specifies that should non-transferable classes of permits be selected by the Commission for issuance, they may only be issued to individuals, and may not be issued to partnerships or corporations; although at the time of issuance, the permit may be issued for a vessel which is owned by a partnership or corporation. This provision allows for the non-transferable permit to expire when the permit holder dies, as the individual's personal fishing history was used to meet the initial issuance criteria.

The proposed language defining initial permit issuance criteria was clarified for each proposed permit class, as qualifying criteria may be based on either a vessel's catch history (determined from fish landing

receipts made in the vessel's identification number) or an individual's catch history (determined from fish landing receipts made in the individual's identification number). Transferable permits may be issued based on a vessel's catch history, while criteria for non-transferable (20-year grandfather) permits are based upon an individual's personal catch history. It was further clarified that once a Transferable Market Squid Vessel Permit, Brail Permit, or Light Boat Permit has been issued for use on a vessel based on that vessel's catch history, individuals may not also use their personal catch history made aboard that vessel toward issuance of a non-transferable vessel or brail permit. This clarification was needed to prohibit the issuance of multiple permits based on catch history associated with a single vessel.

Options for additional initial issuance criteria for non-transferable permits are proposed in the updated regulatory text. These options may be selected by the Commission in order to further limit the potential pool of non-transferable applicants due to the lengthy adoption process of the FMP. The Commission may now select to institute a window period during which the individual's catch history must have been made to qualify for a non-transferable vessel or brail permit. The proposed window period for transferable permits from [January 1, 1990 – January 1, 2000] through [November 12, 1999 – March 31, 2003] is proposed for consideration.

Additionally, if multiple individuals apply for issuance of a non-transferable permit with catch history from the same vessel, only the individual with the greatest number of landings or if applicable, the greatest number of landings during the window period, will qualify for issuance of a non-transferable permit.

An option was also added to require that the holder of a non-transferable permit be aboard the permitted vessel while the vessel is fishing under authority of the permit. This requirement would possibly curtail effort by vessels upon which non-transferable permits are placed.

Minor additional modifications were made to the proposed regulatory text of the subsection for clarity and consistency.

Section 149.1 Subsections (d) and (e) – Specify Application Deadlines for Initial Permit Issuance, and an Appeals Process. These proposed regulations specify that all applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be submitted by June 30, 2004, and provide for a grace period through July 31, 2004 with a \$250 late fee. Applications for initial permit issuance after this

time period will be denied by the Department. Failure to impose deadlines on initial issuance could undermine the goals of the restricted access program since mechanisms to reduce fishing capacity designed as part of the program would likely be ineffective if new permits are continuously issued. Regulations also provide that any applicant who is denied initial issuance of any class of permit may appeal that denial to the Commission within 60 days of the denial, so that applicants are afforded an opportunity to challenge the Department's determination that they do not qualify for a permit under the specified initial issuance criteria. The initial issuance application deadline dates were extended by one year, which would result from a change to the April 1, 2005 effective date of the permit requirement. The change was needed to account for extension of the plan adoption date.

Section 149.1 Subsections (f), (g) and (h) – Specify Annual Permit Renewal Criteria, Deadlines and Appeals Process. These proposed regulations state that permits must be renewed annually, and may only be issued by the Department each year to those who held the same permit in the prior year. It also clarifies that upon the death of a non-transferable permit holder, the permit cannot be renewed. The proposed regulations state that renewal applications must be submitted by April 30 of each year, and provide for a grace period through May 31 of each year with a \$250 late fee. Applications for permit renewal after this time period will be denied by the department and returned to the applicant. If the permittee misses the deadline, an appeals process is again defined. The specified permit renewal deadlines were updated to account for extension of the plan adoption date.

Section 149.1 Subsection (i) – Fees. The proposed regulations reflect a range of permit, transfer and upgrade fees for the Commission's consideration. For each market squid permit, the Commission will select an annual fee from a range of \$400 to \$5000. This level may be set differently for each class of permit (i.e., vessel, brail or light; transferable or non-transferable). For permit transfers, both in cases where the vessel is transferred to a new owner, or if the permit is transferred to a replacement vessel, the Commission will select from a proposed fee range of \$250-\$1000 for the transaction. For each Market Squid Brail Permit Upgrade, the Commission will select a one-time fee from a range of \$400 to \$5000. Fee levels should be set by the Commission based on consideration of, and commensurate with, estimated costs of managing the fishery and implementing the Market Squid FMP.

Section 149.1 Subsection (j) – Permit Revocation, Suspension or Cancellation. The proposed subsection, if adopted, would specify that a permit can be revoked or suspended by the Commission under the following circumstances: a) if the permit holder used false information to qualify for the

permit, b) if the permitholder violates commercial squid fishing regulations, or c) if any terms or conditions of the permit are violated. This provision makes clear there are serious ramifications for violating regulations and encourages sound conduct and self-policing of the fishery.

Section 149.1 Subsection (k) – Dissolution of Partnership or Corporation.

For vessels that hold permits which are issued to partnerships or corporations, rather than individual vessel owners, the proposed regulation would require the permitholder to notify the Department of any dissolution of the partnership or corporation and to specify who the successor permitholder is so that the Department may reissue the permit in that name.

Section 149.1 Subsection (l) – Change of Vessel Ownership. The proposed regulations, if adopted, would require the Commission to set a fee from a range of \$250-\$1000 to be imposed in cases where a permitholder sells his permitted vessel to another owner, and chooses to transfer the market squid permit to the new vessel owner. Documentation requirements and procedures for completing the transaction are also provided. The proposed regulations clarify that non-transferable permits will be canceled upon the sale or transfer of ownership of the vessel.

Section 149.1 Subsection (m) – Capacity Goals. This subsection establishes in regulation, the optimum number of vessels for each squid fishery permit class as selected by the Commission. These numbers form the basis from which other provisions of the restricted access program, such as permit transferability, are determined. If approved, the Commission will adopt a capacity goal for Market Squid Vessel Permits from a range of 10-104 permits, a capacity goal for Market Squid Brail Permits of 18 permits, and a capacity goal for Market Squid Light Boat Permits from a range of 10-104 permits. The proposed regulations also specify that the capacity goals for vessel permits shall equal the sum of the capacity goals for the brail and light boat permit classes.

Section 149.1 Subsection (n) – Gross Tonnage Endorsement. Proposed regulations in this subsection explain the criteria for defining or calculating the gross tonnage of a vessel for which a Market Squid Vessel Permit or a Market Squid Brail Permit is issued. The provisions provide consistency with federal regulations which are established for Coastal Pelagic Species fishery permits, and to provide a measure of comparable capacity for purposes of determining permit transferability.

Section 149.1 Subsections (o) and (p) – Transfer of Permits to Replacement Vessels and Transfer Appeals Process. If adopted, these subsections would define criteria that would allow for transfer of a permit to a different vessel after

August 31, 2004 as selected by the Commission from a wide range of options. The option recommended by the Department would limit permit transfers in these classes to vessels only of comparable capacity, consistent with transferability guidelines for federal Coastal Pelagic Species permits. Regulations would specify that two vessels in the vessel or brail permit classes are considered to be of comparable capacity if the gross tonnage of the replacement vessel is not in excess of ten percent greater than the gross tonnage of the originally permitted vessel. Other options include no permit transferability except in cases of major mechanical breakdown or loss of the vessel, and transferability of permits regardless of vessel capacity. An additional option provides for cases where a replacement vessel does not meet the 'comparable capacity' provisions, a "two-for-one" permit transfer (an additional permit must be relinquished) may be authorized. The effective date for permit transfers was updated to reflect extension of the plan adoption date.

Light boat permit transfer options include "one for one" permit transferability, or provisions for a "two-for-one" permit transfer if the number of permits issued is at a level above the capacity goal specified in subsection (m), and "one for one" if the number of permits issued is below the capacity goal.

Regulations also define documentation requirements and procedures for completing the permit transfer transactions, and provide that any applicant who is denied transfer of any permit may appeal that denial first to the Department and then to the Commission, so that applicants are afforded an opportunity to challenge the Department's determination that they do not qualify for a permit transfer.

Section 149.1 Subsections (q) and (r) – Market Squid Brail Permit Upgrade, and Appeals Process. If adopted, these subsections would provide for a Market Squid Light Boat permittee to upgrade to a Market Squid Brail Permit with surrender of one to three additional Market Squid Light Boat Permits. This option would provide a mechanism to reduce the number of light boat permits, while providing an opportunity to acquire a Market Squid Brail Permit. Regulations also define documentation requirements and procedures for completing the transaction, and provide that any applicant who is denied upgrade of the permit may appeal that denial first to the Department and then to the Commission, so that applicants are afforded an opportunity to challenge the Department's determination that they do not qualify.

Add Section 149.2, Permits for Taking of Market Squid for Sale as Live Bait. If adopted, on and after April 1, 2005, any owner of a vessel which takes market squid for live bait purposes will be required to hold a Market Squid Live Bait Permit for that vessel. This regulatory option is provided to the Commission

should they choose to initiate management of this currently-unregulated component of the squid fishery. The specified permit requirement date was extended by one year to account for extension of the plan adoption date. If adopted, the proposed live bait permit requirement would be effective on and after April 1, 2006.

Add Section 149.3, Experimental Market Squid Vessel Permits.

If adopted, this provision would allow the commission to issue 1-5 Transferable or Non-Transferable Market Squid Vessel Permits to any individual for placement on any vessel for purposes of developing a squid fishery in areas previously not utilized for squid production. Individuals issued permits pursuant to this Section would be required to adhere to all commercial squid fishing regulations in Section 149, Title 14, CCR, and all terms and conditions for permits defined in Section 149.1, excepting initial issuance criteria defined in Section 149.1(c).

Two additional options were added to the proposed regulatory text of this Section for the Commission's consideration. In the event that the Commission selects the option that establishes a squid fishery closure for all waters north of Pillar Point, the Commission may adopt a provision exempting experimental fishery permit holders from this closure area only. An option is also included that would establish a maximum seasonal catch limitation of [2,000 – 5,000] tons by experimental fishery permittees.

Add Section 149.4, Market Squid Fishery Regional Control Date

If adopted, this provision would establish a control date to notify participants of intent to adopt a regional restricted access program for the squid fishery at a future date. A range of control date options [April 1, 1998 – October 17, 2003] is proposed for consideration. Fishery participation on or after this date may apply toward a permit for a specified geographic region under a future regional restricted access program for the market squid fishery if one is developed. Fishery participation prior to the control date would not be used as a measure of participation to qualify for initial issuance of regional restricted access permits. Only participation on or after the control date may be used to determine eligibility in a future regional restricted access program. The port of landing of these catches or records of light boat activity would be used to determine eligibility in specific geographic areas. The range of control date options was expanded to allow for selection of a control date between January 1, 1990 and August 27, 2004.

Possession of any market squid vessel, brail, or light boat permit issued pursuant to Section 149.1, Title 14, CCR, would not guarantee issuance of a permit under any future squid regional restricted access program. Beginning with the fishing season immediately following adoption of a regional restricted access program,

market squid fishery permits issued pursuant to Section 149.1 would be replaced with the appropriate regional permits that would be subject to specific conditions for issuance. Permits previously issued under Section 149.1 would be nullified and no longer subject to renewal provisions.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 7071, 7078, 7923, 8026, 8425, and 8429.5, Fish and Game Code.

Reference: Sections 7050, 7070, 7071, 7075, 7078, 7082, 7083, 7086, 7701, 7708, 7923, 8026, 8081, 8420, 8425, 8429.5, and 8429.7, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change: None.

(d) Identification of Reports or Documents Supporting Regulation Change:

California Department of Fish and Game. 2001. Status of the market squid fishery with recommendations for a conservation and management plan. Calif. Dept. of Fish and Game Marine Region Report to the Legislature. 73 pp.

CDFG 2003. Draft Market Squid Fishery Management Plan (dated July 7, 2003). California Department of Fish and Game, Sacramento, California.

PFMC 1998. Final Supplementary Environmental Impact Statement – Amendment 8 to the Northern Anchovy Fishery Management Plan (the CPS FMP). PFMC, Portland, Oregon.

PFMC 2001. Amendment 9 to the Coastal Pelagic Species Fishery Management Plan. Pacific Fishery Management Council, Portland, Oregon.

PFMC 2002. Amendment 10 to the Coastal Pelagic Species Fishery Management Plan. Pacific Fishery Management Council, Portland, Oregon.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

1. Squid Fishery Advisory Committee meeting, November 7, 2000, Long Beach, CA

2. Public meeting on squid management options, January 26, 2001, Port Hueneme, CA
3. Public meeting on squid management options, January 27, 2001, Monterey, CA

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change: A substantial range of options have been provided in the scope of the proposed regulatory language to offer the Commission and public a suite of alternatives when deciding how to implement the Market Squid FMP. While additional alternatives may have been proposed to the Department or Commission since the Commission was granted management authority for squid fishery management in 1998, they were not considered feasible for inclusion in the Plan or implementing regulations at this time. Responses to those comments are provided in Section 4 of the Market Squid FMP – Responses to Comments Regarding the Preliminary Draft Market Squid FMP.
- (b) No Change Alternative: Should the Commission select not to adopt the Market Squid FMP or implementing regulations, only existing fishery regulations and statutes would continue to govern management of the resource. These measures are inadequate to ensure long term sustainability of the fishery and resource, and would be in conflict with direction given by the Legislature to adopt a fishery management plan and implementing regulations. The existing moratorium on permit issuance would continue with no provisions for permit transferability, and needed modifications to other existing fishery management regulations would not be implemented.
- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Commission has made an initial determination that the adoption of the recommended regulations may result in adverse economic impacts directly affecting California's small businesses associated with the market squid fishery. However, the potential economic impacts would not affect the ability of California's small businesses to compete with businesses in other states.

Implementing restricted access fishery regulations and ensuing fleet reductions, could result in potential direct ex-vessel revenue losses as high as \$3,047,071 fleet wide. This is based on averaged 5-year landings information. On an individual basis, these losses could range from \$38,000 to \$98,000 (before deducting costs of doing business) for each fisherman removed from the fishery. Details of these potential impacts are presented in the Market Squid Fishery Management Plan, dated July 7, 2003, Section 1, Table 3-21. Contact the Agency representative named herein for a complete analysis of the impacts.

Reducing the statewide seasonal harvest to levels ranging from 11,000 to 80,000 short tons, could result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. Potential direct revenue losses to individual fishermen will depend on how many fishermen remained in the fishery, but could range from \$7,400 to \$117,500 per individual (before deducting costs of doing business).

An updated evaluation of adverse economic impacts is now available, and is included in the Market Squid Fishery Management Plan (dated April 12, 2004).

The regulations proposed would directly affect approximately 230 commercial market squid fishermen and light boat operators. The direct impacts to the private sector will depend on which of the proposed management measures and regulations are adopted. There are three primary areas of the proposed regulations that may have significant

economic impact to the businesses associated with the market squid fishery:

- Seasonal and regional catch limits; ranging from 22,000,000 to 250,000,000 pounds statewide (11,000 to 125,000 short tons), and 11,000,000 to 223,200,000 pounds regionally (5,500 to 111,600 short tons),
- Implementation of a Restricted Access Squid Fishery; no new permits would be issued and permit renewal is subject to eligibility criteria intended to reduce the fleet size from about 230 permittees to as many as 148 to 199 permittees,
- Changes to annual permit fees; ranging from \$400 to \$5,000.

Average market squid landings for calendar years 2001 and 2002 were 183,050,000 pounds statewide (91,525 short tons) at an ex-vessel value of about \$20,800,000. Among the roughly 230 market squid permit holders, this represents potential individual revenues of approximately \$90,400 annually (on average and before deducting costs of doing business). Reducing the statewide seasonal harvest to levels less than recent landings, at levels ranging from 22,000,000 to 160,000,000 pounds (11,000 to 80,000 short tons), would result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. The majority of these impacts would occur in the Counties of Monterey, Santa Barbara, and Los Angeles, where most market squid landings are made. Potential revenue losses to individual fishermen would depend on how many fishermen remained in the fishery. Other proposed statewide seasonal levels of 236,000,000 and 250,000,000 pounds (118,000 and 125,000 short tons) would not present an economic impact to the fishery since these levels are above average catches in recent years.

Proposed regional catch limits, for the area North of Point Conception and area South of Point Conception, could impact local coastal communities disproportionately through reduced catch levels. The proposed 11,000,000 to 15,200,000 pound catch limits (5,500 to 7,600 short tons) for the North region and 131,000,000 to 233,000,000 pounds (65,500 to 111,600 short tons) for the South region potentially results in a much larger impact to fishermen in the North region. Recent landings information for the two regions (for calendar years 2001 and 2002 averaged), were about 75,200,000 pounds (37,600 short tons) for the North region and about 274,800,000 pounds (137,400 short tons) in the South annually. The potential loss in ex-vessel revenue for the North region fishermen ranges from \$6.8 million to \$7 million (an 80 percent to 85 percent reduction from recent landings revenues), and ranges from \$5.8 to \$16 million (a 19 percent to 52 percent reduction from

recent landings revenues) for South region fishermen. However, since Northern landings were unusually high in calendar year 2002, these impact estimates are likely to be overstated.

Regulations that would establish a restricted access fishery work in tandem with proposed eligibility criteria to determine which fishermen will remain in the fishery. Depending on the criteria adopted, the fleet of permittees may be reduced by 31 to 81 permits, in order to arrive at a fleet of 148 to 199 permittees. The proposed eligibility criteria are crafted to exclude fishermen who historically have had only marginal participation in the fishery; for example excluded fishermen may represent only 17 percent of the seasonal ex-vessel revenue generated by the entire fleet. Thus potential ex-vessel revenue losses to individual fishermen culled from the fishery, based on averaged 5-year landings information, could range from \$38,000 to \$98,000 per permittee (before deducting costs of doing business).

New fees may be stipulated under the proposed regulations, depending on which regulatory options are adopted. Currently, annual permit fees for market squid light boats and market squid fishermen are \$400. The regulations propose new annual fees ranging from \$400 to \$5,000. Permit transfer fees (or upgrade fees) currently at \$250 per transfer, may range from \$250 to \$1,000, depending on which regulations are adopted. The projected financial impact of the proposed permit fees to the average fisherman, calculated as the Present Value of permit fees paid over a 5-year time period, discounted at the 2002 Federal 5-year Treasury Bill rate of 3.82 percent, ranges from \$1,800 to \$22,400.

The proposed regulations may result in changes in seasonal market squid harvests statewide. Reducing the statewide seasonal harvest to levels less than recent landings, at levels ranging from 22,000,000 pounds to 160,000,000 pounds (11,000 to 80,000 short tons), would result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. Extrapolating these potential revenue losses to the local economies, through the use of an output demand multiplier of 1.61, yields economic impact estimates of \$2,700,000 to \$28,000,000 in lost economic output demand statewide. Proposed statewide seasonal catch levels of 236,000,000 and 250,000,000 pounds statewide (118,000 and 125,000 short tons) would not present a statewide economic impact to the fishery since these levels are above average catches in recent years.

Statewide costs or economic impacts associated with implementing a restricted access fishery, and the ensuing loss of fishermen through permit reductions, are based on an estimated \$3.7 million loss in ex-vessel revenue production capacity due to fleet reduction. Apportioning this \$3.7 million among the respective local economies and using appropriate output demand multipliers, yields potential reduction of \$6 million to \$7.8 million statewide in economic demand output (this recognizes that each \$1 of ex-vessel revenue generates \$1.61 to \$2.05 in economic activity for local economies). Further details on these economic impacts are presented in the April 12, 2004, Market Squid Fishery Management Plan, see Section 3, Item 1.1.3.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Regulations to establish a restricted access fishery and the associated eligibility criteria may result in loss of 31 to 81 market squid fishing jobs.

- (c) Cost Impacts on a Representative Private Person or Business:

Reducing the statewide seasonal harvest to levels ranging from 11,000 to 80,000 short tons, could result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. Potential direct revenue losses to individual fishermen will depend on how many fishermen remained in the fishery, but could range from \$7,400 to \$117,500 per individual (before deducting costs of doing business).

Implementing restricted access fishery regulations and ensuing fleet reductions, could result in potential direct ex-vessel revenue losses as high as \$3,047,071 fleet wide. This is based on averaged 5-year landings information. On an individual basis, these losses could range from \$38,000 to \$98,000 (before deducting costs of doing business) for each fisherman removed from the fishery. Details of these potential impacts are presented in the Market Squid Fishery Management Plan, dated July 7, 2003, Section 1, Table 3-21. Contact the Agency representative named herein for a complete analysis of the impacts.

Other private person or business costs impacts that could arise from the proposed action are increases in market squid permit fees. Currently market squid permits fees are set at \$400 annually, and depending on the regulations adopted could increase to as much

as \$5,000 annually.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None

Updated Informative Digest/Policy Statement Overview

Regulations are proposed to implement a Market Squid Fishery Management Plan (Market Squid FMP, or Plan), including a market squid commercial fishery restricted access program, and to amend existing commercial squid fishing regulations adopted by the Fish and Game Commission (Commission) to manage the squid resource at a sustainable level. Fish and Game Code Section 8425 directs the Department of Fish and Game (Department) to develop, and the Commission to adopt, a Market Squid FMP in compliance with the Marine Life Management Act (MLMA) (Chap. 1052, Stats. 1998).

Each of the management alternatives included in the proposed regulatory amendments to Title 14, CCR, is described in the summary which follows.

Add Section 53.00, et seq. This proposed series of regulations serves to implement the Market Squid FMP, as follows:

Section 53.00 - Purpose and Scope. Following in the series of regulations established in Chapter 5.5 of Title 14, CCR, which implement fishery management plans adopted by the Commission pursuant to the Marine Life Management Act, this Section provides that regulations established in Article 4 are consistent with the goals and objectives of the Market Squid FMP. It also states that the Plan, in combination with other applicable state and federal laws and regulations, governs management and regulation of market squid stocks and fisheries. The regulation further explains where specific squid regulations that will be adopted concurrently with adoption of the Plan may be found in the structure of Title 14.

Section 53.01- Definitions. This Section serves to provide definitions that are specific to the Market Squid FMP. All definitions provided are consistent with those found in the general FMP definitions found in Section 50.01 of Title 14 as well as other provisions of state and federal fisheries laws. The specified approval date was updated to reflect extension of the Commission's plan adoption date.

Section 53.02 - Process and Timing. This Section explains that management of squid stocks and fisheries will conform to the Market Squid FMP and other applicable state and federal laws and regulations, and that regulations may be adopted by the Commission in compliance with the Administrative Procedure Act to achieve intended management actions. The Department will provide the Commission information periodically upon which management decisions may be made, and the Director may establish an advisory committee to assist the department with development and review of fishery assessments, management

options and proposals, and Plan amendments.

Section 53.03 - Market Squid Fishery Management Plan (Market Squid FMP) Project. This Section serves to outline the proposed management actions which are presented in the Market Squid FMP, which constitute the “Proposed Project” of the Market Squid FMP, in fulfillment of CEQA requirements. This Section also provides that other management measures which are not included at this time as part of the proposed project or specifically detailed in the Market Squid FMP may be considered by the Commission for implementation at a later date, provided the action is consistent with the goals and objectives of the Market Squid FMP.

149. Commercial Taking of Market Squid. This Section was modified in 2000 and 2002 based upon the Commission’s adoption of interim regulations using management authority from the Legislature to protect and manage the squid resource. Management measures adopted in these actions included enactment of weekend closures to provide for uninterrupted squid spawning throughout the state for two days per week, requirements to fill out logbooks of fishing activity, a limitation on the amount of light (wattage) which may be used for commercial squid fishing operations, a requirement to shield lights used for commercial squid fishing, and a statewide seasonal limit on the allowable catch of 125,000 short tons. There requirements are currently specified in subsections (a) through (e) of Title 14, CCR. Modifications, alternatives and additions to regulations in this Section are discussed below.

Section 149 Subsection (a) – Weekend Closures. Four regulatory options are provided for the Commission’s consideration on this item; the first of which would only modify existing regulatory language to provide needed clarity on the scope of the regulation for enforcement purposes. The proposed modifications would clarify that commercial landings which are smaller than two tons are exempt from the closure in order to continue to provide an opportunity to land squid which may be taken as bycatch in fisheries where squid is not a target. Additionally, it is clarified that squid taken for live bait purposes on weekends pursuant to this Section shall only be sold as live bait.

The second option would repeal the weekend closure altogether.

The third option would maintain existing statewide weekend closures but provide for an exemption in the areas of the northern Channel Islands to allow fishing to continue 7 days per week, as some portion of the squid stock in that area would instead be protected in the newly-established marine protected areas.

The fourth option would maintain existing weekend closures in waters south of Point Conception, but the Commission could adjust the number of days per week open to fishing as well as the times of day or night that commercial squid fishing would be authorized in waters north of Point Conception. **Furthermore, the Commission could enact an additional time closure for commercial squid fishing in waters of District 16 (southern Monterey Bay) between 9 a.m. and 6 p.m. on the days when fishing is authorized.**

Section 149 Subsection (b) – Logbooks. As with weekend closure regulations in subsection (a), the Commission will take action at the adoption meeting to specify if existing logbook regulations shall be maintained and slightly modified for enforcement purposes, or if the measure shall be repealed. Proposed modifications to the existing language would update the permit designations to be consistent with the proposed commercial restricted access program and modify the revision dates of the logbook forms which are referenced in the regulation. It would also specify that logbook records shall be transmitted to the Department on or before the 10th day of each month following the month that fishing activity occurred, a requirement consistent with existing regulatory language in Section 190, Title 14, CCR.

Section 149 Subsection (c) – Wattage Limitation. The Commission will take action at the adoption meeting to specify if existing wattage regulations shall be eliminated, maintained at the current level, or replaced with a wattage limitation set at a value between the range of 15,000 to 30,000 watts. Other slight modifications are proposed to the existing regulatory language for technical clarification purposes.

Section 149 Subsection (d) – Light Shields. The Commission will determine if the current requirements shall be maintained status quo, if they should be modified to improve the effectiveness of the measure, or if they shall be repealed altogether. Department enforcement staff have indicated that the existing regulatory language is somewhat unclear with regard to the orientation of the lights directly downward; thus, the option to modify the requirements would add language which would also require that the lower edges of the shields be parallel to the deck of the vessel. The Department recognizes that this change to current practice could require that some light boat or vessel owners would need to substantially retrofit their shields in order to comply with the proposed regulatory change; therefore it would be incorrect to designate the proposed change as merely a non-substantive, technical or clarifying in nature; and therefore it is considered as a separate regulatory option.

Section 149 Subsection (e) – Seasonal Catch Limitation. The

Commission has four options to select from in terms of specifying an overall limit each season on the commercial harvest of squid. In options that serve to modify existing regulatory language, the existing term of “seasonal harvest guideline” is proposed to be replaced with “seasonal catch limitation” in each option in order to maintain consistency with general fishery management plan definitions specified in Section 50.01, Title 14, CCR. Other clarifying language was included to acknowledge existing or proposed regulatory provisions in this Section. The options include A) maintain existing regulations for a statewide catch limit, while considering changes to the allowable volume from a range of 24,000 to 125,000 short tons, B) eliminate the existing provisions, C) use El Nino events to determine the allowable harvest level [11,000 short tons during an El Nino time period and 115,000 short tons during a non-El Nino time period], or D) establish the limits regionally rather than statewide [5,500 to 27,800 short tons north of Point Conception and 65,500 to 111,600 short tons south of Point Conception]. Options C and D involve substantial new regulatory language.

Section 149 Subsection (f) – Option to Add Daily Trip Limits. If adopted, these regulations would limit each squid landing to a specified tonnage level depending on the type of fishing gear used. Roundhaul (purse seine, lampara) landings would be subject to a daily trip limit ranging from 30 to 138 short tons per day, and a level of 15 short tons would be imposed for brail vessels.

Section 149 Subsection (g) – Options to Add Seasonal Closure Areas for Seabird Protection and/or Harvest Replenishment Areas and/or General Habitat Closures. If adopted, these regulations would establish a closed season from February 1 through September 30 for squid fishing, or for squid fishing employing the use of lights, in specified areas at two or three of the northern Channel Islands and/or the Farallon Islands and/or all waters of the Gulf of the Farallones National Marine Sanctuary in order to provide seasonal protection for nesting seabirds. Each of the proposed closure areas extend outward at least one nautical mile from shore. These options were designed to provide various levels of protection to multiple seabird species which may have reduced, threatened, or endangered population levels. The seasonal closure end date was amended to provide the Commission a range of time periods from which it may select. The proposed closure period may now end on any date between September 30 and November 30.

Additionally, if adopted, a proposed regulation would prohibit the take of market squid for commercial purposes in waters less than 100 fathoms in depth contiguous to San Nicholas Island. This proposed option may provide a specific squid harvest replenishment area in a currently underutilized squid fishing area and would prevent expansion of the

fishery into these waters.

Additionally, if adopted, proposed regulations would prohibit the take of market squid for commercial purposes in specified northern California waters for general habitat protection. These measures are designed to prevent squid fishery interactions in areas that have not been traditionally utilized for commercial squid fishing. In 2003, several boats began harvesting squid in waters well north of the traditional Monterey fishing grounds, which is of concern to some biologists and other users of these areas. Particular issues that have been raised as matters of concern in these areas include the potential for bycatch of salmon in purse seine gear, potential for impact to seabirds from noise and lights, and the potential for interaction with marine mammals. Options to address these concerns include closing all waters to the commercial take of squid north of Pillar Point at any time, prohibiting the commercial take of squid in any waters of the Gulf of the Farallones National Marine Sanctuary, prohibiting the take of squid for commercial purposes in waters extending offshore one nautical mile from the mean high water mark of Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock, or prohibiting the take of squid for commercial purposes in District 10.

Section 149 Subsection (h) –Allow for Incidental Take. This regulation would specify that it is unlawful to take, land, or possess in excess of two tons of squid per trip or per calendar day except as authorized under a specific permit designation or for purposes of live bait only. This amendment would serve to establish, in regulation, a statutory provision that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

Section 149 Subsection (i) –Specify Forfeiture Process. This amendment would also serve to establish, in regulation, a statutory provision in Section 8421 (h) that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

Section 149 Subsection (j) –Clarify Authorized Use of Light to Aggregate Squid. This amendment would also serve to establish, in regulation, a statutory provision in Section 8423 (e) that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

Section 149 Subsection (k) –Clarify to Whom Citations for Violations of This Section May Be Issued. The proposed regulations would include this subsection to clarify that citations for violations of this Section may be issued to the vessel operator, crewmembers, and/or the holder of a

market squid permit issued pursuant to Section 149.1, Title 14, CCR.

Add Section 149.1, et seq. This proposed series of regulations serve to implement the commercial Market Squid Fishery Restricted Access Program, as follows below. The program and regulations are designed in accordance with the Commission's policy on Restricted Access Commercial Fisheries, and provides for a reduction in the fishing capacity of the market squid fleet and to allow for transfer of permits, which has been prohibited under the current statutory moratorium on permit issuance. The regulations, if adopted, would define and establish permits of different classes based on authorized geartypes, procedural requirements for permit issuance, fishery capacity goals, and specific mechanisms to achieve those goals through permit transferability and upgrades.

Section 149.1 Subsection (a) – Establish Permit Requirement to Fish Squid for Commercial Purposes. This proposed regulation states that on and after April 1, 2004, any vessel engaged in taking squid, landing squid, or attracting squid by light for commercial purposes, shall have a valid market squid permit issued to the owner of that vessel. The regulatory language was updated to reflect extension of the plan adoption date. April 1, 2005 is now proposed as the effective date for the permit requirement. **A minor grammatical change was made to the proposed regulatory text for clarity.**

Section 149.1 Subsection (b) – Establish Permit Classes and Authorized Activities. The proposed subsection would designate up to three classes of commercial squid permits, to include Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits. Within each permit class, authorized gear types are specified. The regulation also allows permits to be specified as transferable or non-transferable, or both types of permits to be issued in each class. Only one market squid permit, regardless of the class of permit, may be issued per owner per vessel.

Section 149.1 Subsection (c) – Establish Initial Permit Issuance Criteria. The proposed regulatory language specifies that permits are to be issued for fishing vessels based on either the vessel or an individual meeting the selected initial issuance criteria for each class of permit. The Commission may choose among several initial issuance criteria options that can result in transferable and/or non-transferable permit designations. For vessel permits, initial issuance criteria are constructed upon levels of catch history ranging from 50 to 150 squid landings within a qualifying time period spanning from January 1, 1990 to December 31, 2002. For brail permits, the Commission may consider a range of qualifying participation levels from 5 to 25 squid landings made with brail gear within a qualifying

time period spanning from January 1, 1990 to December 31, 2002. For light boat permits, initial issuance criteria based on landings are inappropriate, therefore this option is based on possessing a current market squid permit (vessel or light) and submission of one logbook within a qualifying time period spanning from January 1, 2000 to December 31, 2002. Options are provided that include permit issuance criteria based on 10 to 50 squid landings in one single fishing season for 20-year California commercial fishermen (grandfathered individuals) pursuant to Fish and Game Code Section 8101. Other options for initial issuance criteria would not be based on prior catch history, and instead would require only that a squid permit have been held in one or more previous years.

The regulation further specifies that should non-transferable classes of permits be selected by the Commission for issuance, they may only be issued to individuals, and may not be issued to partnerships or corporations; although at the time of issuance, the permit may be issued for a vessel which is owned by a partnership or corporation. This provision allows for the non-transferable permit to expire when the permit holder dies, as the individual's personal fishing history was used to meet the initial issuance criteria. The range of dates provided from which a qualifying window period may be selected was clarified and extended to March 31, 2003. Therefore, the Commission may select any window period start date from January 1, 1990 through January 1, 2000, and any end date from November 12, 1999 through March 31, 2003. Most proposed initial issuance criteria options require that the vessel owner be issued a current squid permit. The specified permit dates were updated to reflect extension of the plan adoption date.

The proposed language defining initial permit issuance criteria was clarified for each proposed permit class, as qualifying criteria may be based on either a vessel's catch history (determined from fish landing receipts made in the vessel's identification number) or an individual's catch history (determined from fish landing receipts made in the individual's identification number). Transferable permits may be issued based on a vessel's catch history, while criteria for non-transferable (20-year grandfather) permits are based upon an individual's personal catch history. It was further clarified that once a Transferable Market Squid Vessel Permit, Brail Permit, or Light Boat Permit has been issued for use on a vessel based on that vessel's catch history, individuals may not also use their personal catch history made aboard that vessel toward issuance of a non-transferable vessel or brail permit. This clarification was needed to prohibit the issuance of multiple permits based on catch history associated with a single vessel.

Options for additional initial issuance criteria for non-transferable permits are proposed in the updated regulatory text. These options

may be selected by the Commission in order to further limit the potential pool of non-transferable applicants due to the lengthy adoption process of the FMP. The Commission may now select to institute a window period during which the individual's catch history must have been made to qualify for a non-transferable vessel or brail permit. The proposed window period for transferable permits from [January 1, 1990 – January 1, 2000] through [November 12, 1999 – March 31, 2003] is proposed for consideration.

Additionally, if multiple individuals apply for issuance of a non-transferable permit with catch history from the same vessel, only the individual with the greatest number of landings or if applicable, the greatest number of landings during the window period, will qualify for issuance of a non-transferable permit.

An option was also added to require that the holder of a non-transferable permit be aboard the permitted vessel while the vessel is fishing under authority of the permit. This requirement would possibly curtail effort by vessels upon which non-transferable permits are placed.

Minor additional modifications were made to the proposed regulatory text of the subsection for clarity and consistency.

Section 149.1 Subsections (d) and (e) – Specify Application Deadlines for Initial Permit Issuance, and an Appeals Process. These proposed regulations specify that all applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be submitted by June 30, 2004, and provide for a grace period through July 31, 2004 with a \$250 late fee. Applications for initial permit issuance after this time period will be denied by the Department. Failure to impose deadlines on initial issuance could undermine the goals of the restricted access program since mechanisms to reduce fishing capacity designed as part of the program would likely be ineffective if new permits are continuously issued. Regulations also provide that any applicant who is denied initial issuance of any class of permit may appeal that denial to the Commission within 60 days of the denial. The initial issuance application deadline dates were extended by one year, which would result from a change to the April 1, 2005 effective date of the permit requirement. The change was needed to account for extension of the plan adoption date.

Section 149.1 Subsections (f), (g) and (h) – Specify Annual Permit Renewal Criteria, Deadlines and Appeals Process. These proposed regulations state that permits must be renewed annually, and may only be issued by the Department each year to those who held the same permit in

the prior year. It also clarifies that upon the death of a non-transferable permit holder, the permit cannot be renewed. The proposed regulations state that renewal applications must be submitted by April 30 of each year, and provide for a grace period through May 31 of each year with a \$250 late fee. Applications for permit renewal after this time period will be denied by the department and returned to the applicant. If the permittee misses the deadline, an appeals process is again defined. The specified permit renewal deadlines were updated to account for extension of the plan adoption date.

Section 149.1 Subsection (i) – Fees. The proposed regulations reflect a range of permit, transfer and upgrade fees for the Commission's consideration. For each market squid permit, the Commission will select an annual fee from a range of \$400 to \$5000. This level may be set differently for each class of permit (i.e. vessel, brail or light; transferable or non-transferable). For permit transfers, both in cases where the vessel is transferred to a new owner, or if the permit is transferred to a replacement vessel, the Commission will select from a proposed fee range of \$250-\$1000 for the transaction. For each Market Squid Brail Permit Upgrade, the Commission will select a one-time fee from a range of \$400 to \$5000.

Section 149.1 Subsection (j) – Permit Revocation, Suspension or Cancellation. The proposed subsection, if adopted, would specify that a permit can be revoked or suspended by the Commission under the following circumstances: a) if the permitholder used false information to qualify for the permit, b) if the permitholder violates commercial squid fishing regulations, or c) if any terms or conditions of the permit are violated.

Section 149.1 Subsection (k) – Dissolution of Partnership or Corporation. For vessels which hold permits which are issued to partnerships or corporations, rather than individual vessel owners, the proposed regulation would require that the permitholder notify the Department of any dissolution of the partnership or corporation, and to specify who the successor permitholder is so that the Department may reissue the permit in that name.

Section 149.1 Subsection (l) – Change of Vessel Ownership. The proposed regulations, if adopted, would require the Commission to set a fee from a range of \$250-\$1000 to be imposed in cases where a permitholder sells his permitted vessel to another owner, and chooses to transfer the market squid permit to the new vessel owner. Documentation requirements and procedures for completing the transaction are also provided. The proposed regulations clarify that non-transferable permits will be canceled upon the sale or transfer of ownership of the vessel.

Section 149.1 Subsection (m) – Capacity Goals. This subsection establishes in regulation, the optimum number of vessels for each squid fishery permit class as selected by the Commission. These numbers form the basis from which other provisions of the restricted access program, such as permit transferability, are determined. If approved, the Commission will adopt a capacity goal for Market Squid Vessel Permits from a range of 10-104 permits, a capacity goal for Market Squid Brail Permits of 18 permits, and a capacity goal for Market Squid Light Boat Permits from a range of 10-104 permits. The proposed regulations also specify that the capacity goals for vessel permits shall equal the sum of the capacity goals for the brail and light boat permit classes.

Section 149.1 Subsection (n) – Gross Tonnage Endorsement. Proposed regulations in this subsection explain the criteria for defining or calculating the gross tonnage of a vessel for which a Market Squid Vessel Permit or a Market Squid Brail Permit is issued. The provisions provide consistency with federal regulations which are established for Coastal Pelagic Species fishery permits, and to provide a measure of comparable capacity for purposes of determining permit transferability.

Section 149.1 Subsections (o) and (p) – Transfer of Permits to Replacement Vessels and Transfer Appeals Process. If adopted, these subsections would define criteria that would allow for transfer of a permit to a different vessel after August 31, 2004 as selected by the Commission from a wide range of options. The option recommended by the Department would limit permit transfers in these classes to vessels only of comparable capacity, consistent with transferability guidelines for federal Coastal Pelagic Species permits. Regulations would specify that two vessels in the vessel or brail permit classes are considered to be of comparable capacity if the gross tonnage of the replacement vessel is not in excess of ten percent greater than the gross tonnage of the originally permitted vessel. Other options include no permit transferability except in cases of major mechanical breakdown or loss of the vessel, and transferability of permits regardless of vessel capacity. An additional option provides for cases where a replacement vessel does not meet the ‘comparable capacity’ provisions, a “two-for-one” permit transfer (an additional permit must be relinquished) may be authorized. The effective date for permit transfers was updated to reflect extension of the plan adoption date.

Light boat permit transfer options include “one for one” permit transferability, or provisions for a “two-for-one” permit transfer if the number of permits issued is at a level above the capacity goal specified in subsection (m), and “one for one” if the number of permits issued is below the capacity goal.

Regulations also define documentation requirements and procedures for completing the permit transfer transactions, and provide that any applicant who is denied transfer of any permit may appeal that denial first to the Department and then to the Commission.

Section 149.1 Subsections (q) and (r) – Market Squid Brail Permit Upgrade, and Appeals Process. If adopted, these subsections would provide for a Market Squid Light Boat permittee to upgrade to a Market Squid Brail Permit with surrender of one to three additional Market Squid Light Boat Permits. This option will provide a mechanism to reduce the number of light boat permits, while providing an opportunity to acquire a Market Squid Brail Permit. Regulations also define documentation requirements and procedures for completing the transaction, and provide that any applicant who is denied upgrade of the permit may appeal that denial first to the Department and then to the Commission.

Add Section 149.2, Permits for Taking of Market Squid for Sale as Live Bait. If adopted, on and after April 1, 2005, any owner of a vessel which takes market squid for live bait purposes will be required to hold a Market Squid Live Bait Permit for that vessel. This regulatory option is provided to the Commission should they choose to initiate management of this currently-unregulated component of the squid fishery. The specified permit requirement date was extended by one year to account for extension of the plan adoption date. If adopted, the proposed live bait permit requirement would be effective on and after April 1, 2006.

Add Section 149.3, Experimental Market Squid Vessel Permits. If adopted, this provision would allow the commission to issue 1-5 Transferable or Non-Transferable Market Squid Vessel Permits to any individual for placement on any vessel for purposes of developing a squid fishery in areas previously not utilized for squid production. Individuals issued permits pursuant to this Section would be required to adhere to all commercial squid fishing regulations in Section 149, Title 14, CCR, and all terms and conditions for permits defined in Section 149.1, excepting initial issuance criteria defined in Section 149.1(c).

Two additional options were added to the proposed regulatory text of this Section for the Commission’s consideration. In the event that the Commission selects the option that establishes a squid fishery closure for all waters north of Pillar Point, the Commission may adopt a provision exempting experimental fishery permit holders from this closure area only. An option is also included that would establish a maximum seasonal catch limitation of [2,000 – 5,000] tons by experimental fishery permittees.

Add Section 149.4, Market Squid Fishery Regional Control Date

If adopted, this provision would establish a control date to notify participants of intent to adopt a regional restricted access program for the squid fishery at a future date. A range of control date options [April 1, 1998 – October 17, 2003] is proposed for consideration. Fishery participation on or after this date may apply toward a permit for a specified geographic region under a future regional restricted access program for the market squid fishery if one is developed.

Fishery participation prior to the control date would not be used as a measure of participation to qualify for initial issuance of regional restricted access permits. Only participation on or after the control date may be used to determine eligibility in a future regional restricted access program. The port of landing of these catches or records of light boat activity would be used to determine eligibility in specific geographic areas.

Possession of any market squid vessel, brail, or light boat permit issued pursuant to Section 149.1, Title 14, CCR, would not guarantee issuance of a permit under any future squid regional restricted access program. Beginning with the fishing season immediately following adoption of a regional restricted access program, market squid fishery permits issued pursuant to Section 149.1 would be replaced with the appropriate regional permits that would be subject to specific conditions for issuance. Permits previously issued under Section 149.1 would be nullified and no longer subject to renewal provisions. The range of control date options was expanded to allow for selection of a control date between January 1, 1990 and August 27, 2004.